

## REMARKS/ARGUMENTS

Reconsideration and allowance of the above-identified application are respectfully requested. Upon entry of this Amendment, claims 1-43 will be pending.

Before discussing the individual rejections, Applicants would like to take the opportunity to explain a fundamental difference between the voting system described in the present patent application, and those described in the cited references. Applicants' voting system generates, analyzes and provides the ability to audit physical paper ballots. Paper ballots are generated and then marked by voters to indicate their desired votes. In certain embodiments of the invention, the paper ballot is then scanned and a visual representation of the physical ballot (an image of the paper ballot with the voter's markings) is generated. The visual representation is analyzed and vote date is generated based on the analyzed image of the physical ballot. The physical ballot, the visual representation, and the vote date generated from the analyzed visual representation of the physical ballot are then associated with one another using a unique ballot identification. The generation of a paper ballot based on a voter characteristic is unique to the present system, and is not shown in the cited references. Furthermore, the ability to audit using the three components -- a physical ballot with voter's physical markings, a visual representation of the physical ballot (including the voter's markings), and the vote data determined from the analyzed visual representation of the physical ballot -- is a unique and powerful feature of the present system. Because all three components are associated with one another based on the unique ballot identification, the physical ballot can be retrieved and compared to the electronic visual representation of the ballot. Furthermore, the vote data distilled from analysis of the visual representation of the ballot (the scanned ballot) can be

compared to the visual representation of the ballot, and the actual physical ballot, by a human being to ensure that the vote data accurately represents the intent of the voter, as indicated by the physical markings on the paper ballot. Furthermore, errors can be corrected by a human being making a judgment based on a review of the physical ballot and/or a visual representation of the ballot and markings made on the ballot by the voter. Neither of the references cited by the Examiner, either along or in combination, teach or suggest these features.

The Chung application discloses a primarily electronic voting system in which a ballot *receipt* is generated by a printer. The receipt may contain vote data so the voter can verify that their vote is tabulated as they intended. However, Chung does not generate a *printed paper ballot*, and does not describe scanning a physical paper ballot with voter markings thereon to generate a visual representation of the physical voted ballot.

Similarly, McClure describes a primarily electronic voting system in which tablets are used by voters to cast electronic votes. While McClure admittedly describes scanning absentee ballots, McClure does not teach any means of auditing the scanned absentee ballot vote data. In other words, McClure does not describe marking the voted physical ballot, a visual representation of the ballot, and the vote data distilled from analysis of the electronic image of the ballot with a unique ballot identifier so that an audit of each ballot can be performed in which a human being can compare the vote data generated to the physical ballot to determine whether the vote data represents the voters intent.

Now the specific reasons for rejection will be discussed in turn. The Examiner has objected to the abstract because it contains the term “invention.” The abstract has

been amended to remove that term. Applicants believe the objection to therefore be overcome.

The Examiner has rejected claims 1-3 and 11-13 under 35 U.S.C. §102(e) as being anticipated by U.S. Published Application No. 2004/0046021 to Chung. Specifically, the Examiner alleges that independent claims 1 and 11 are anticipated because Chung teaches “storing a database of voter records, each voter record comprising at least one voter characteristic, based on the at least one voter characteristic, generating a ballot.” Applicants do not admit that Chung is prior art. However, even assuming for purposes of this response that it is prior art, as described above, Chung describes a primarily electronic voting system. The present invention is directed to a method of generating, analyzing and auditing *paper* ballots. Claims 1 and 11 have been amended to clarify that the present invention is directed to a method and system of conducting an election in which paper ballots (as opposed to electronic ballots) are generated based on at least one voter characteristic. Chung does not teach or describe the generation of paper ballots based on at least one voter characteristic. Therefore the rejection is deemed to be overcome.

Claims 2, 3, 12 and 13 depend from independent claims 1 and 11, respectively, and therefore inherit all of the limitations of the respective base claims. Therefore, the same arguments given above apply to the dependent claims as well. Accordingly, the rejection of claims 2, 3, 12 and 13 is believed to be overcome as well.

The Examiner has rejected claims 24-43 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,250,548 to McClure. With respect to independent claims 24 and 35 the Examiner suggests that McClure teaches “a scanner” adapted to generate a computer readable visual representation of a voted ballot, a processor

adapted to generate vote data based on the visual representation, and the visual representation being associated with the vote data and the voted ballot. Independent claim 24 has been amended to clarify that a *paper* ballot is scanned to generate a computer readable visual representation of the voted ballot. McClure simply does not teach this. Furthermore, claim 24 requires the visual representation to be associated with the paper ballot and the vote data that is generated based on the visual representation. In this manner the voter's *written intent* can later be compared to the vote data generated from the visual representation to make sure it is accurate. McClure describes no such functionality. For the most part McClure teaches an electronic voting system in which voting tablets are used to *electronically* vote. There is no written record of the voter's intent because there is never a physical ballot.

McClure does teach scanning absentee ballots, but there is no means of auditing the vote data generated from the scanned absentee ballots because McClure does not teach retaining an electronic visual representation of the physical ballot, the actual physical ballot, and associating both with the vote data generated from the ballot. For all of these reasons, independent claim 24 is not anticipated by McClure. Independent claim 34 similarly recites a computer readable medium of instructions for controlling a voting system to generate a computer readable visual representation of a voted *paper* ballot, to generate vote data from the visual representation, and to associate the visual representation with the vote data. Claim 34 was amended to clarify that a *paper* ballot is used to generate the computer readable visual representation of the ballot. As argued above, McClure teaches primarily an electronic voting system, and does not provide for associating a visual representation of a physical voted paper ballot with the vote data that is obtained from the visual

representation of the ballot. In McClure's system, there is no means to audit the ballots to ensure that the vote data accurately represents the voters intent, because there is no physical ballot to compare the vote data to. In McClure, vote data is generated directly from the voter using an electronic voting tablet. In some cases absentee ballots are scanned and vote data generated based on two dimensional positions of markings on the absentee ballot, but the ballot image, as intended in this application, is not retained. As used in McClure the term "ballot image" simply refers to the ballot style for a particular voter. The visual representation used in the present application refers more specifically to an image representing a physical ballot that was marked by a voter. For all of there reasons, claim 35 is not anticipated by McClure, and Applicants believe that this rejection should be withdrawn.

Claims 25-34 and 36-43 depend from claims 24 and 35, respectively, and therefore contain all of the limitations of the respective base claims. Therefore, claims 25-34 and 36-43 should be allowed for the same reasons discussed above in connection with independent claims 25 and 36.

The Examiner has rejected claims 4-7, 10 and 14-23 under 35 U.S.C. §103(a) as being unpatentable over Chung, as applied to claims 1-3 and 11-13, and in view of McClure. More specifically, the Examiner has rejected claims 4 and 14-15, suggesting the Chung teaches generating a particular ballot for a particular voter based on the voter's eligibility. The Examiner admits that Chung does not teach generating the ballot in two portions and mailing the portions with return envelopes to voters. The Examiner cites McClure as teaching "generating the ballot comprising a voter associated portion and an anonymous portion" as well as "mailing said ballot to a voter identified in the voter associated portion, together with an anonymous envelope

and a return envelope.” McClure simply teaches a two-part form with a top sheet detachably connected to a bottom sheet. In McClure, the bottom portion, which contains the voter’s markings, also contains a barcode identifying the particular unique absentee ballot number, the ballot style, and an encrypted number used to prove the ballot is authentic. As recited in claims 4, 14 and 15 of the present application, in embodiments of the present invention, a ballot is mailed to a voter with two parts (a voter associated portion, and an anonymous portion). The voter also receives an anonymous envelope and a return envelope. These elements together allow the voter to place the voted (anonymous) portion in the anonymous envelope, and to place the voter associated portion in the return envelope together with the sealed anonymous envelope. In this manner, the particular voter’s ballot can be registered, indicating that the particular voter has voted. This reduced the possibility of voter fraud. However, because the anonymous portion remains sealed in the anonymous envelope, the voter’s privacy is maintained. Only after the return of the voter’s ballot is registered is the anonymous portion *separated* from the voter associated portion. The actual vote data in the anonymous portion can later be tabulated together with other anonymous portions of other ballots. In this way the voter’s vote is counted without compromising the voter’s privacy and secrecy. McClure’s system, at best, allows the voter to return the back page of the ballot, and assuming the barcode on the page does not disclose the voter, return the anonymous portion in an envelope. There is no mention of an anonymous envelope, which is important to keep the anonymous portion *together with* the voter associated portion until it is appropriate to separate the two. In other words, neither McClure nor Chung teach returning a two-part ballot in a return envelope and an anonymous envelope,

such that the two parts remain *together* until they are received and the particular ballot is registered as having been received, while also maintaining secrecy and privacy using the anonymous envelope, such that the anonymous envelope and its contents can be separated from the voter-associated portion for tabulation after the fact that the particular voter's vote has been received has been recorded. For all of these reasons, claims 4 and 14-15 should be allowed.

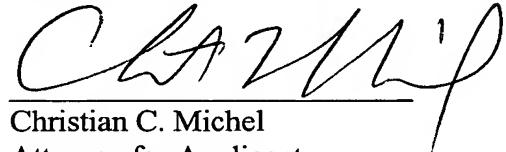
Claims 5-7, 10, and 16-17 depend from claims 4 and 14 discussed above, and therefore the arguments discussed above apply to claims 5-7, 10, and 16-17 as well. Therefore, allowance of claims 5-7, 10, and 16-17 is also respectfully requested.

The Examiner has rejected claim 18, suggesting that Chung teaches "marking each of a plurality of voted ballots with a unique identification. The Examiner admits that Chung does not teach "scanning said plurality of voted ballots and generating computer readable visual representations of each of said ballots." However, the Examiner cites McClure as making up this deficiency in Chung. Independent claim 18 has been amended to clarify that it is a voted *paper* ballot that is marked with a unique ballot identification. Furthermore, as discussed above, it is this physical marked ballot that is scanned to generate a computer readable visual representation of the ballots. The physical ballot, the visual representation of the voted ballot, and the vote data that is distilled from the visual representation are all associated with one another based on the unique ballot identification. As discussed above, neither Chung nor McClure teaches or suggests this combination of features which are advantageous in later auditing election results to ensure that the voters intent is accurately reflected in the vote tally. McClure at most teaches scanning absentee ballots and generating vote data based on the position of marking on the absentee ballot, but neither reference teaches

retaining an electronic image of the physical voted ballot, along with the physical ballot, and associating both with the vote data counted for the ballot. For these reasons, the rejection of claim 18\* should be withdrawn. Claims 19-23 depend from claim 18, and therefore have all of the limitations of independent claim 18. Therefore, the same arguments presented in connection with claim 18 apply equally to claims 19-23. Accordingly, Applicants respectfully request that the rejections of claims 19-23 be withdrawn as well.

In view of the above, it is believed that the application is in condition for allowance and notice to this effect is respectfully requested. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully Submitted,



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